

Appl. No. 10/620,400
Amdt. dated 11 Oct 04
Reply to Office action of 12 July 04

REMARKS:

In the Specification:

The specification is amended to correct typographical errors.

In the Drawings:

The office action first objects to the drawings based on the allegation that they do not show the "first default position" and the "second position" recited in claims 19 and 20. (Office Action at p. 2.) Applicant respectfully traverses and states that Figure 1 shows the two valves 92, 94 in the default position (application at p. 5, l. 4 as amended) and Figure 2 shows the valves 92, 94 in the non-default position. The specification states that the valve 92 includes button 100 and valve 94 includes button 102 "that can be moved (i.e., by a thumb of an operator) between a biased default (non-depressed) position and a depressed position." (Application at p. 5, ll. 1-2.) Figure 1 shows the buttons 100, 102 and thereby the valves 92, 94 in the default position while Figures 2 and 4 show the button 100 (in phantom) in a second or depressed position. Moreover, those skilled in the art understand a conventional valve without the need to have it pictured in detail. Applicant respectfully requests reconsideration of the objection to the drawings.

In the Claims:

Claims 1-33 are pending in the application; claims 1-13 have been canceled without prejudice to resubmit the subject matter thereof in this or a continuing application; claims 14-20 have been amended; and new claims 21-33 have been added.

35 U.S.C. 112 Rejections

Claims 2 and 11 stand rejected under 35 U.S.C. 112, first paragraph, for enablement and second paragraph for indefiniteness because the disclosure allegedly "provides no support for a device that is interchangeable from pneumatically operated to manually operated." (Office Action at p. 3.) The applicant respectfully traverses the rejections as moot in light of the cancellation of claims 2 and 11. However, Applicant notes that the specification does recites that the fastener is "either pneumatic or manually operated." (Application at p. 1, ll. 16-17.) Similarly, the specification recites that either of "pneumatic actuator 18 or manually operated actuator 20 is selectively mounted on top end 16 of guide 12 with bolts 72." (Application at p. 4, ll. 1-2.) Finally, the specification provides that "it is within the scope of the disclosure to have other configurations that may utilize, for example, a system having compressed gas that biases handle 132." (Application

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at p. 7, ll. 17-19.) Accordingly, Applicant respectfully asserts that the specification supports new claim 32.

35 U.S.C. § 102 Rejections

Claims 1, 6, 7, 14 and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,627,563 to Meyer. Applicant respectfully traverses the rejections to claims 1, 6 and 7 as moot due to their cancellation. Applicant further traverses in that Meyer does not disclose or otherwise suggest the use of compressed air to bias the pusher into a retracted position. Rather, Meyer teaches the use of a spring bias. Claim 14 has been amended to clarify this distinction. In addition, the new claims include this distinction. Accordingly, Applicant requests reconsideration of the rejection of claims 14 and 17.

Claims 1, 6-10, 12-14, and 16-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,929,056 to Lange. Applicant respectfully traverses the rejections to claims 1, 6-10 and 12-13 as moot due to their cancellation. Applicant further traverses in that Lange does not disclose or otherwise suggest the use of compressed air to bias the pusher into a retracted position. Rather, Lange is concerned with a safety feature that requires two valves to be open in order to actuate the pusher to the extended fastener-inserting position and is silent, both in the written description and the drawings, with respect to movement back to the retracted position. Claim 14 has been amended to clarify this distinction. In addition, the new claims include this distinction. Accordingly, Applicant requests reconsideration of the rejection of claims 14 and 16-20 and favorable consideration of the new claims.

Claims 2 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,025,969 to Koester et al. Applicant respectfully traverses the rejection as moot in light of the cancellation of claims 2 and 11.

35 U.S.C. § 103 Rejections

Claims 3 and 4 stand rejected under 35 U.S.C. § 1033(a) as being unpatentable over Meyer in view of U.S. Patent No. 4,688,710 to Massari, Jr. et al., and claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Meyer in view of U.S. Patent No. 4,815,647 to Chou. Applicant respectfully traverses the rejection as moot in light of the

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cancellation of claims 3-5. Moreover, as noted above, Meyer fails to anticipate the independent claim in that Meyer teaches the use of a spring bias.

CONCLUSION:

Applicant respectfully traverses and requests reconsideration of the rejections and favorable consideration of the new claims. No fees are believed due for the new claims.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees be charged, or any overpayment in fees be credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 5823-70103. The Examiner is encouraged to call the undersigned to discuss this case.

Respectfully,

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